

**UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

In re:	§	CASE NO. 14-32821-11
	§	
SEARS METHODIST RETIREMENT SYSTEMS, INC., <i>et al.</i>	§	CHAPTER 11
	§	
DEBTORS.	§	JOINTLY ADMINISTERED
	§	

**LIQUIDATING TRUSTEE’S MOTION FOR APPROVAL OF
PREVAILING BID OF TEXAS METHODIST FOUNDATION FOR
ABILENE PROPERTY PURSUANT TO AGREED UNDEVELOPED
PROPERTIES SALE PROCEDURES AND ENTRY OF ORDER
CONFIRMING SALE OF ABILENE PROPERTY**

TO THE HONORABLE UNITED STATES BANKRUPTCY JUDGE STACEY G. C.
JERNIGAN:

Harold Kessler, the Liquidating Trustee (the “Liquidating Trustee”) for the Liquidating Trust established pursuant to this Court’s Findings of Fact, Conclusions of Law, and Order Confirming Debtors’ Second Amended Joint Plan of Reorganization Pursuant to Chapter 11 of the Bankruptcy Code [Docket No. 800] (the “Confirmation Order”), files this Motion for Approval of Prevailing Bid of Texas Methodist Foundation for Abilene Property Pursuant to Agreed Undeveloped Properties Sale Procedures (the “Motion”). In support of the Motion, the Liquidating Trustee respectfully represents that:

JURISDICTION AND VENUE

1. This Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334. This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(A) and (O). Venue is proper in this district pursuant to 28 U.S.C. §§ 1408 and 1409. The statutory predicates for the relief sought herein are §§ 105 and 363 of title 11 of the United States Code, 11 U.S.C. §§ 101 – 1532 (as amended, the “Bankruptcy Code”).

BACKGROUND

2. On March 19, 2015, Texas Methodist Foundation (“TMF”) and Wells Fargo Bank, N.A., as Trustee (the “Obligated Group Bond Trustee”) jointly filed the Notice of Agreed Undeveloped Properties Sale Procedures [Docket No. 819] (the “Sale Procedures”).¹

3. Pursuant to the Sale Procedures, the Abilene Property was marketed by Senter Realtors. Two Qualified Bids were received prior to the Bid Deadline—one from RSF Partners (“RSF”) and the other by TMF.

4. On July 31, 2015, an auction for the Abilene Property was held at the Dallas, TX office of Diamond McCarthy LLP by the Liquidating Trustee (the “Auction Proceeding”). A transcript of the Auction Proceeding (the “Auction Transcript”) is attached hereto as Exhibit A. During the Auction Proceeding, competitive bids were received from both TMF and RSF. At the request of RSF, TMF and the Obligated Bond Trustee both consented to the reduction of the minimum bid increment from \$25,000 to \$10,000 for the Abilene Property. Further, the Liquidating Trustee maintained a bid sheet reflecting each bid received from both TMF and RSF during the Auction Proceeding (the “Bid Sheet”). The Bid Sheet is attached hereto as Exhibit B.

5. The Prevailing Bid at the Auction Proceeding was a credit bid made by TMF in the total amount of \$760,000.00.

6. Pursuant to the Sale Procedures, the Liquidating Trustee shall present the Prevailing Bid for the Abilene Property to the Bankruptcy Court as the successful bid no later than five (5) business days after the Auction Proceeding in order to obtain an order approving such sale.

¹ All capitalized terms not defined herein shall have the same meaning assigned to them in the Sale Procedures.

RELIEF REQUESTED

7. The Liquidating Trustee requests entry of and order substantially in the form of the attached proposed order.

BASIS FOR RELIEF

8. Section 363(b)(1) of the Bankruptcy Code provides, in relevant part, that a debtor, “after notice and hearing, may use, sell or lease, other than in the ordinary course of business, property of the estate.” 11 U.S.C. § 363(b).

9. Further, pursuant to § 363(f) of the Bankruptcy Code, a trustee may sell property free and clear of any lien, claim, or interest in such property if, among other things: (i) applicable non-bankruptcy law permits sale of such property free and clear of such interest; (ii) such entity consents; (iii) such interest is a lien and the price at which the property is sold is greater than all liens on such property; (iv) such interest is in bona fide dispute; or (v) such entity could be compelled, in a legal or equitable proceeding, to accept money satisfaction of such interest. 11 U.S.C. § 363(f). Because § 363(f) of the Bankruptcy Code is drafted in the disjunctive, satisfaction of any one of its five requirements is sufficient to permit a sale to be free and clear of all liens, claims, encumbrances, and interests. Here, a “free and clear” sale is warranted because one or more of the standards set forth in §§ 363(f)(1)-(5) of the Bankruptcy Code will be satisfied.

10. Section 363(m) of the Bankruptcy Code provides that:

The reversal or modification on appeal of an authorization under subsection (b) or (c) of this section of a sale or lease of property does not affect the validity of a sale or lease under such authorization to an entity that purchased or leased such property in good faith, whether or not such entity knew of the pendency of the appeal, unless such authorization and such sale or lease were stayed pending appeal.

11 U.S.C. § 363(m).

11. The Sale Procedures allowed for sufficient time for the marketing of the Abilene Property and for the submission of Qualified Bids. The Auction Proceeding elicited competitive bids that culminated in the Prevailing Bid submitted by TMF. There was no collusion in the submission of bids at the Auction Proceeding.

12. Accordingly, the Liquidating Trustee requests that the Court determine TMF to be acting in good faith and entitled to the protections of a good faith purchaser under § 363(m) of the Bankruptcy Code.

CONCLUSION

WHEREFORE, the Liquidating Trustee respectfully requests that the Court enter an order, substantially in the form of the proposed order attached hereto, and grant such other and further relief as is just and proper.

Dated: August 7, 2015.

Respectfully submitted,

/s/ Harold J. Kessler (w/p)
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LIQUIDATING TRUSTEE

APPROVED AS TO FORM AND SUBSTANCE:

/s/ Charles M. Rubio

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BANK, NATIONAL ASSOCIATION

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on August 7, 2015, a true and correct copy of this Motion was served electronically on those parties registered to receive electronic notice via the Court's CM/ECF system and served on the parties listed below by first class mail, postage prepaid, within one business day of this filing.

RSF Partners
3899 Maple Avenue, Suite 250
Dallas, Texas 75219

Senter Realtors
Attn: Tom Niblo, CCIM
4301 Curry Ln
Abilene, TX 79606

/s/ Charles M. Rubio

Charles M. Rubio

EXHIBIT A

Auction Transcript

Property Auction

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PROPERTY AUCTION

IN RE: CASE NUMBER 14-32821-SGJ-11

DATE TAKEN: July 31, 2015

LOCATION:

Diamond McCarthy, LLP
Tower at Cityplace
2711 N. Haskell Avenue
Suite 3100
Dallas, TX 75204

REPORTED BY:

Judy Gamm, Texas CSR

Property Auction

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2 LIQUIDATING TRUSTEE:

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13 FOR WELLS FARGO, N.A.:

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1 P R O C E E D I N G S

2 MR. KESSLER: I would like to get on the
3 record. It is 10:06. We're going to need a few minutes
4 to get some basic information on today's proceedings
5 into the court record, and then the parties of interest
6 will be allowed some time to bolster the record as they
7 see fit.

8 We are gathered this morning pursuant to an
9 order by the Honorable Stacey Jernigan, approving the
10 bid procedures for the sale of certain undeveloped land
11 in Abilene, Texas, owned by Sears Methodist Centers,
12 Inc., Sears Methodist Retirement, Inc., jointly
13 administered with Sears Caprock Retirement Corporation,
14 Sears Methodist Centers, Inc., Sears Methodist
15 Foundation, Sears Panhandle Retirement Corporation,
16 Sears Permian Retirement Corporation, Sears Plains
17 Retirement Corporation, Sears Tyler Methodist Retirement
18 Corporation, and Senior Dimensions, Inc., operating as
19 debtor in possession under Chapter 11 of the U.S.
20 Bankruptcy Code. The case number is 14-32821-SGJ-11.

21 This auction is being conducted under
22 Section 363 of the Code, and our activities today will
23 be formally presented to Judge Jernigan at a final Sears
24 sales hearing to be scheduled on or about August 7th.
25 Judge Jernigan is the ultimate authority of whatever we

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1 do here today.

2 My name is Harold Kessler, liquidating
3 trustee of SMRS Liquidating Trust, and I am a managing
4 director of BlackBriar Advisors, LLC.

5 Please take notice that Texas Methodist
6 Foundation, further known as TMF, and Wells Fargo Bank,
7 N.A., as trustee, further known as the obligated group
8 bond trustee, have agreed to the agreed undeveloped
9 property sale procedures.

10 Attending today is Mr. Alex R. Perez of
11 Diamond McCarthy representing TMF; Charles Azano via
12 phone of Mintz, Levin, Cohn, Ferris, Glovsky & Popeo,
13 representing the obligated group bond trustee.

14 And I will ask Mr. Perez and Mr. Azano to
15 introduce themselves and their teams.

16 MR. PEREZ: Good morning, everyone. My
17 name is Alex Perez. I'm with the law firm Diamond
18 McCarthy in the Houston office. I represent Texas
19 Methodist Foundation. And along with me here today are
20 Tom Stanton and Robert Hoppe as well.

21 MR. KESSLER: Chip?

22 MR. AZANO: Good morning. My name is
23 Charles Azano with the law firm of Mintz Levin. We
24 represent Wells Fargo, the bond trustee for the
25 obligated group.

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1 MR. KESSLER: Thank you. On March 19th,
2 2015, TMF and the obligated group bond trustee filed
3 agreed procedures that govern the sales process for the
4 undeveloped properties under Section 363 of the
5 Bankruptcy Code, the agreed undeveloped properties sales
6 procedures Docket Number 819.

7 On July 15th, a qualified bid was received
8 from RSF Partners in the amount of \$500,000 along with
9 an earnest money deposit of \$100,000. On July 17th, a
10 letter was received from TMF, a qualified bidder
11 pursuant to Section 13 of the sale procedures, providing
12 notice that TMF has submitted a credit bid for the
13 Abilene property in the amount of \$525,000.

14 And now we ask TMF to designate a spokesman
15 for the auction.

16 MR. STANTON: I'm Tom Stanton, and I will
17 be the spokesperson.

18 MR. KESSLER: As stated above and
19 consistent with the bidding procedures, on July 15th, a
20 bid was submitted by RSF Partners. After review by the
21 liquidating trustee, Diamond McCarthy, LLP, and the
22 obligated group bond trustee, it was determined that
23 RSF Partners' bid was a qualified bid under the bid
24 procedures.

25 RSF Partners is being represented by

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1 Gregory Hesse of Hunton & Williams, LLP. And I will ask
2 Mr. Hesse to introduce the RSF Partners team.

3 MR. HESSE: Yes. We have -- well,
4 actually, I'll have them introduce themselves here.

5 MR. BROWN: Sebastian Brown with
6 RSF Partners.

7 MR. ADAMOWITZ: Jay Adamowitz, RSF
8 Partners.

9 MR. DOWD: Brian Dowd, Evergreen Senior
10 Living.

11 MR. KESSLER: Thank you. I will ask the
12 RSF Partners group to designate an official spokesperson
13 for the auction.

14 MR. HESSE: Sebastian Brown will be that
15 person.

16 MR. KESSLER: Thank you. The auction shall
17 proceed by permitting the qualified bidders to make
18 successive bids, each of which must be at least \$25,000
19 higher than the previous bid. The auction shall
20 continue until there is only one offer that is the
21 highest offer from among the bids submitted by qualified
22 bidders at the auction.

23 I will give each group some time between
24 bids, if you need it. We'll go off the record so you
25 can talk to your constituents and come back, if you need

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1 that time.

2 I'm not going to impose a time limit, but I
3 would kind of appreciate, if there is a hiccup in this
4 thing, you'll let us know.

5 I would also like to put on the record that
6 following the bid procedures, the liquidating trustee is
7 holding the deposit for RSF Partners. Also, the
8 liquidating trustee has created a template spreadsheet
9 to provide transparency of each bid, which will -- and
10 will record each bid.

11 While it is ultimately the liquidating
12 trustee's document right now, this is a work in process,
13 and we designate and enter into the record our
14 disclaimer that these are put together for purposes of
15 this auction to evaluate and record the auction
16 proposals. Participants are reminded that this matter
17 is subject to Federal Bankruptcy Court review and
18 approval.

19 At this time I invite the parties of
20 interest, if they so desire, to address the record with
21 anything that you may need to put on the record.

22 MR. PEREZ: This is Alex Perez on behalf of
23 TMF. I don't believe that we have any additional items
24 to add to the record at this moment.

25 MR. HESSE: This is Greg Hesse on behalf of

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1 RSF. One clarification that we would ask from the --
2 with regard to the bid procedures: While there will be
3 an order that will be entered authorizing the sale free
4 and clear of liens, claims, and encumbrances, I just
5 wanted clarification and representation from both TMF
6 and the obligated group that, if need be, that they will
7 file a release of lien on the -- of their lien interest
8 on the property.

9 MR. PEREZ: I think that we're -- that's
10 acceptable.

11 MR. HESSE: Okay.

12 MR. KESSLER: Chip?

13 MR. AZANO: Yes. My reception wasn't great
14 on that. What I believe I heard was that we would be
15 willing to release our lien -- cooperate to release our
16 lien with the winning bidder.

17 MR. HESSE: That's correct.

18 MR. AZANO: No objection, obviously.

19 MR. HESSE: Thank you.

20 MR. KESSLER: Okay. Anybody else?

21 MR. HESSE: I don't believe we have -- do
22 we have anything further? No, we have nothing further.

23 MR. KESSLER: Okay.

24 MR. STANTON: Just a quick clarification.

25 I can speak for TMF, and my question would be to

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1 counsel. In the event that we have an effective bid
2 from Sears today, am I right that there is no subsequent
3 board approval that's going to be required? You-all
4 have authority to make that bid?

5 MR. BROWN: Correct.

6 MR. HESSE: That's correct.

7 MR. STANTON: Thanks.

8 MR. KESSLER: Lastly, just if you can
9 identify yourself before speaking for your official
10 designee. We're a small group, and we'll be as
11 accommodating as we can, but the reporter probably -- it
12 would helpful to her if she knows who is speaking at the
13 time.

14 If that is all we have, nobody has any
15 questions? I think right now we have a bid on the table
16 of 525,000 from Texas Methodist Foundation, TMF.

17 MR. BROWN: RSF would obviously like to
18 increase the bid to 550. We have done quite a bit of
19 research on what we feel market value is --

20 MR. KESSLER: Excuse me. Sebastian Brown
21 is speaking.

22 MR. BROWN: -- on the market value of the
23 land. The net usable acreage there, we kind of feel to
24 be 8 acres. We are very open to kind of talking about
25 the methodology of how we got to that.

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1 You know, for us, owning the adjacent
2 property, there's a certain amount of kind of protection
3 value that we want to make sure we -- you know, that
4 there is an adjacent use that's not unfavorably
5 developed next to us. Obviously, there's a limit to how
6 much we would want to do on that front. And, obviously,
7 we still have quite a bit of work to do on our existing
8 asset today. And, you know, our scope and mindset of
9 the usable acreage and what to do in that market does
10 have some of its constraints.

11 Brian, I don't know if you want to add
12 anything else to that.

13 MR. DOWD: I would agree that, I mean,
14 given the power lines that run down the property,
15 there's -- you know, there is some sort of limit as to
16 how far over we can go with some of our cottages and,
17 you know, for the development potential. So as
18 Sebastian said, it has a little bit of an impact on, you
19 know, where we can go in terms of our valuation of the
20 property. But it would be great to have that as a
21 protection, take us all the way to the road, and allow
22 us to, you know, build more cottages and maybe some
23 additional product there.

24 But as you know, the shape of the land
25 is -- there's only some -- you know, there's -- the

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1 front part is more usable than the back, so. . .

2 MR. STANTON: And Tom Stanton for TMF. We
3 are grateful for your interest and your approach to it.
4 And TMF is not interested or in the business of holding
5 property, and so we certainly have taken a business
6 approach to this, and we're certainly here very
7 interested.

8 We are -- but we have some strong views
9 about the value and marketability of the property, so
10 we'll respond to the bid with 600,000. I would indicate
11 that -- that we do believe, with all due respect, we're
12 a way away at 600 from -- I believe quite a distance
13 from what we think we would need to get from this
14 property.

15 MR. BROWN: To be up front here, we also --
16 this is Sebastian Brown again with RSF Partners. We're
17 not going to be participating in, obviously, the Waco
18 auction. It's not something that we have interest in.
19 We understand that you're spreading out your credit bid
20 between those two designee sites.

21 For us, you know, again, just to reiterate,
22 we only have interest in the Abilene site. We are very
23 open to discussing how we came to that methodology of
24 valuation and appreciate your guys's also kind of
25 openness as well in what you frankly think value is.

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1 I think, you know, as we progress and do
2 this -- and we do have our limits that we're going to
3 reach here quickly. We will continue to be of interest.
4 We hope you just be mindful of, there's kind of a
5 secondary phase of transaction costs, right? So if you
6 guys do take it through your credit bid and you pay out
7 all the necessary third parties and then, you know, we
8 stand there kind of at where we were before, we think
9 we're the only interested party and the top interested
10 party, that it's never been official to anybody to have
11 kind of secondary transaction costs occur for where we
12 would have otherwise been today.

13 MR. STANTON: I appreciate that, and I
14 think that's well said. So our bid is 600. But I would
15 like to ask Mr. Kessler if we could have a break in a
16 few minutes for me to visit with Robert about their
17 invitation to speak more specifically about how they
18 came to the property value.

19 MR. KESSLER: That's fine. We're off the
20 record for a few minutes.

21 (Break taken from 10:19 a.m. to 10:25 a.m.)

22 MR. KESSLER: All right. It is 10:25, and
23 we're back on the record. I believe we have, what, an
24 offer of 600,000 from TMF.

25 MR. BROWN: So RSF Partners will go up to

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1 625,000. And I'm going to give a little bit more
2 methodology of how we came to, again, value the site.

3 We actually used the broker that was
4 involved and engaged on this transit listing and asked
5 him to send over all the comps that he had in the last
6 three or four years. And they basically ranged for
7 multifamily acreage, 25 acres, and the last high was
8 about a buck 35, and the low was about a buck.

9 And so we -- I mean, our methodology of net
10 usable acreage of 8 acres, we applied that \$1.35, which
11 is excluding the time value of money component of how
12 long we would have to hold it and everything else, if
13 there was to be an alternative use, and derived at a
14 rough valuation of \$470,000 initially.

15 We're the first to admit, you know, our
16 methodology for net usable acreage is -- you know,
17 could fall to 10 acres as well, right? I mean, it's
18 kind of all in how a good architect designs things
19 versus 8 acres versus 10 acres, and kind of brought us
20 to an upper limit valuation of somewhere close to
21 \$600,000.

22 I'm not going to sit here today and tell
23 you that I'm, you know, an exact scientist. I'm a
24 former MAI appraiser, and so I do things kind of in a
25 very methodical manner whenever I look at things and try

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1 to be as scientific as possible. But the reality is,
2 right, there's -- you stick your thumb out a little bit
3 at the end of the day and -- to try to figure it out.

4 So we are willing to go up to \$625,000,
5 and, you know, at that point in time we'll recess.

6 MR. DOWD: And I would just -- this is
7 Brian Dowd. I would just add, you know, in evaluating
8 this number, it's -- you know, it's a very -- it's a
9 quick close. There's no entitlement risk. We're not
10 looking to rezone it. We're not going to be -- you
11 know, the reps and warrants are minimal, at best. There
12 is no financing contingency.

13 You know, as Sebastian said earlier, you're
14 not re-marketing it. You're not going to -- you know, I
15 would guess that most people who look at this might try
16 to rezone it or change -- do something and ask you for
17 your patience while they do that. And this is a very
18 quick close and, again, no reps. The reps and warrants
19 are almost nonexistent. So I think we stated that in
20 our term sheet as well, but I just wanted to reiterate
21 that --

22 MR. STANTON: Thank you.

23 MR. DOWD: -- you know, in looking at this
24 versus a normal transaction, which may have a longer
25 time frame and other contingencies to it. So. . .

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1 MR. STANTON: Thanks.

2 MR. KESSLER: Okay. We currently have a
3 bid of 625. Back to you.

4 MR. STANTON: And Tom Stanton for TMF. We
5 respond at 650.

6 MR. BROWN: Sebastian Brown with RSF.
7 We're going to have to recess. And, actually, I would
8 like to ask: Is there the ability to bid in smaller
9 increments than the 25 court-ordered? I may make a
10 motion for that. Greg?

11 MR. HESSE: I believe the bid procedures --

12 MR. KESSLER: These procedures are clear at
13 the 25.

14 MR. HESSE: Well, the bid procedures also
15 provide that at the consent of the two secured lenders,
16 TMF and the obligated group, that the bid procedures can
17 be changed without further order of the court.

18 MR. STANTON: Tom Stanton. I respect,
19 really, the -- the really thoughtful work that you're
20 doing. We wouldn't object to that.

21 MR. KESSLER: Chip? Charles? Hey, Chip?

22 MR. AZANO: Yes.

23 MR. KESSLER: Did you hear that request?

24 MR. AZANO: No. I'm sorry. Could you
25 repeat that?

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1 MR. KESSLER: Yes. The RSF Partners has
2 requested that instead of going with the 25,000-dollar
3 increment of bid raise that we go with something
4 smaller. TMF had no objections to that.

5 MR. AZANO: That's fine. I have no
6 objection to that.

7 MR. KESSLER: Okay. Thank you.

8 Do you have a suggestion of what you want
9 that to be? I don't want to get too small here.

10 MR. BROWN: If we could go down to 10,000.

11 MR. KESSLER: Is 10,000 okay with everyone?

12 MR. STANTON: Yes. No objection.

13 MR. KESSLER: Chip, is 10 okay with you?

14 MR. AZANO: 10,000 is acceptable.

15 MR. KESSLER: Okay.

16 MR. BROWN: If we can get a five-minute
17 recess as well.

18 MR. KESSLER: You can. We are off the
19 record at 10:30.

20 (Break taken from 10:30 a.m. to 10:47 a.m.)

21 MR. KESSLER: It is 10:47, and I guess
22 we're back on the record.

23 MR. BROWN: Before we respond, can we
24 inquire, if you would be so inclined to advise us, kind
25 of what your plans or intentions would be if you guys

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1 ultimately take possession of the land?

2 MR. STANTON: Well, that's a good question.

3 I don't think that -- I don't think we can be too
4 specific other than to tell you that we don't have right
5 now anybody else that we are talking with and that we
6 are certainly open to -- because of our commitment and
7 responsibility we owe to the board and to the work of
8 the foundation, to get what we think is a good, fair
9 price for this property and because of having a large
10 indebtedness in another property where we tend to be
11 risk-adverse with respect to this asset, and we
12 certainly would be willing to talk with you.

13 I appreciate your comment, sir, about that
14 there is an elegance and simplicity about this. I think
15 that we may be going another route, depending on where
16 you-all take this discussion now. But that also has
17 some opportunities and some openness for some more
18 flexibility with respect to terms and financing and ways
19 of getting everything done.

20 So our interest is in working to get this
21 property marketed after this process is over, if we have
22 deed to it, and do it in a fairly good businesslike
23 environment.

24 I did want to share with you, if you were
25 wondering, we are not necessarily feeling that we have a

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1 fire-sale need to liquidate this asset in the coming
2 days, weeks, or months. We certainly can take a
3 premeasured approach to the market, if you were
4 wondering about that.

5 And so we appreciate you-all and the
6 thoughtfulness and the real skill and appreciate that
7 you-all are next to our people, and we absolutely are
8 interested in, either this procedure or beyond, working
9 with you on this sale.

10 MR. BROWN: Okay. I mean, you're real
11 estate people as well, so there's a certain time value
12 of money. And, frankly, we have no idea what we would
13 do. I mean, we have general thoughts and ideas, and
14 implementing those things takes time. You know, it's a
15 little bit of an accelerator, if you will, to the
16 overall business plan that we had originally. So I
17 think it's just good for us to know. I guess that would
18 be true.

19 With that, we will increase our bid to
20 \$660,000 with that.

21 MR. STANTON: Okay. Mr. Kessler?

22 MR. KESSLER: Yes, sir.

23 MR. STANTON: I promise we're looking at a
24 two-minute discussion with Mr. Hoppe in the hallway.

25 MR. KESSLER: That's fine.

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1 MR. STANTON: Good.

2 MR. KESSLER: We're off the record.

3 (Break taken from 10:50 a.m. to 10:54 a.m.)

4 MR. KESSLER: It is 10:54, and we are back.

5 MR. STANTON: Thank you, Mr. Kessler. Tom
6 Stanton for TMF. We respond with a credit bid of
7 700,000.

8 MR. BROWN: We need a recess.

9 MR. KESSLER: That's fine.

10 (Break taken from 10:55 a.m. to 11:08 a.m.)

11 MR. KESSLER: It is 11:08, and we are back
12 on the record.

13 MR. BROWN: I have a couple of questions.
14 You guys finance real estate transactions. Do you guys
15 do that to for-profit groups as well, or is it
16 exclusively for nonprofit in your real estate
17 transactions?

18 MR. STANTON: I think I can be kind of
19 direct on that. For a new lender -- a new borrower
20 coming to us, it would need to be fit within the
21 charitable not-for-profit group, but in connection with
22 the sale of a property that originated properly for a
23 proper tax-exempt purpose, we have more flexibility.

24 MR. BROWN: Okay.

25 MR. STANTON: And so we could hold a note

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1 on a property that we acquired through this process.

2 MR. BROWN: Okay.

3 MR. STANTON: And I do the tax work for our
4 organization, and I look at that, but, certainly, we're
5 open to that.

6 MR. BROWN: Okay. And does your tax-exempt
7 status today provide -- do you believe it'll provide you
8 tax-exempt status with the property taxes if you
9 maintain and hold it for a period of time as well on the
10 property, or is that --

11 MR. STANTON: Good question. I'm not going
12 to be able to answer that right now. I won't -- I'm not
13 going to venture that far from --

14 MR. BROWN: Okay.

15 MR. STANTON: -- and give you that view of
16 it.

17 MR. BROWN: Okay. We will increase our bid
18 at 710.

19 MR. KESSLER: Chip, did you hear that?

20 MR. AZANO: Was that 710?

21 MR. KESSLER: 710.

22 MR. AZANO: Thank you.

23 MR. STANTON: And our response is 725.

24 MR. BROWN: We will have to recess -- I
25 apologize -- one more time.

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1 MR. KESSLER: That's fine. 11:10, we're
2 off.

3 (Break taken from 11:10 a.m. to 11:18 a.m.)

4 MR. KESSLER: It is 11:18, and we are back
5 on the record.

6 MR. BROWN: So I think we want to be the
7 best possible neighbors as possible, and we -- if this
8 was under any other pretense, we would have been
9 reaching out to you guys not in these confines, and we
10 would be having the same conversation we are here today
11 and be kind of moving in this direction.

12 So, I mean, the nature of what's occurred
13 here has kind of caused us to be in a little bit of a
14 different setting, but I think, you know -- again,
15 honesty is always kind of the best approach. Even when
16 you're playing poker, sometimes it's the best way to do
17 things.

18 So making it open here, we're going to just
19 go to our max, which is 750. We think that's more than
20 fair for the upper market value of this property. We've
21 crunched numbers so many different ways now. Our hopes
22 are, you know, even if, you know, we don't take
23 possession, that we can contact you at some point at a
24 later date, but just to let you know kind of where we've
25 reached our max on the limit at, so. . .

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1 MR. STANTON: Okay. I really appreciate
2 the candor and appreciate the opportunity for you-all to
3 meet Robert. Robert and his colleague, David McCastle,
4 are the guys that will be lead for the TMF and
5 discussions forward, if there are any.

6 But for today's purposes, then our response
7 bid is -- your final bid was 750?

8 MR. BROWN: That's our, yeah, final.

9 MR. STANTON: Yeah. Yeah. Then our final
10 bid is 760.

11 MR. BROWN: Okay. There will be no
12 subsequent bidding from RSF.

13 MR. KESSLER: All right. I appreciate
14 everyone's help and attendance. I'm going to bring the
15 auction to a close and thank everybody for their time
16 but just ask: Would anyone else like to put anything on
17 the record at this time.

18 MR. PEREZ: This is Alex Perez on behalf of
19 TMF. We don't have anything to add to the record.

20 MR. HESSE: This is Greg Hesse on behalf of
21 RSF. There's nothing further to add.

22 MR. KESSLER: Okay. Officially, we are
23 adjourning the record at 11:20 and appreciate everybody
24 being here and appreciate everybody's cooperation today.

25 Thank you. We are done.

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(Proceedings adjourned at 11:20 a.m.)

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2 COUNTY OF DALLAS)

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I, Judy Gamm, Certified Shorthand Reporter in
and for the State of Texas, do hereby certify that the
above and foregoing contains a true and correct
transcription of all portions of the proceedings which
occurred and were reported by me.

I further certify that I am neither counsel
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attorneys in the action in which this proceeding was
taken, and further that I am not financially or
otherwise interested in the outcome of the action.

Certified to by me this 4th day of August,
2015.



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EXHIBIT B

Bid Sheet

Abilene Property July 31, 2015				
Bid Amount	Bidding Party	Bid Increase	Date/Time	Comments
\$ 500,000	RSF Partners		07/15/15	Letter rec. from RSF Partners
525,000	Texas Methodist Foundation ("TMF")	25,000	07/17/15	Credit Bid Letter rec. from TMF
600,000	TMF	75,000	10:18	
625,000	RSF Partners	25,000	10:26	
650,000	TMF	25,000	10:28	
660,000	RSF Partners	10,000	10:50	Successive bid increase was reduced to \$10,000 from \$25,000 as was approved by both TMF & the Obligated Group Bond Trustee
700,000	TMF	40,000	10:55	
710,000	RSF Partners	10,000	11:10	
725,000	TMF	15,000	11:10	
750,000	RSF Partners	25,000	11:19	
760,000	TMF	10,000	11:20	Final bid
<hr/>				
\$ 260,000	Increase from original bid			

PROPOSED ORDER

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

In re:	§	CASE NO. 14-32821-11
	§	
SEARS METHODIST RETIREMENT SYSTEM, INC., et al.¹	§	CHAPTER 11
	§	
Debtors.	§	Jointly Administered
	§	

ORDER CONFIRMING SALE OF ABILENE PROPERTY

Pursuant to that certain Agreed Undeveloped Properties Sale Procedures (the “Sale Procedures”)² between Texas Methodist Foundation (“TMF”) and Wells Fargo Bank, N.A., as Trustee (the “Obligated Group Bond Trustee”), TMF and the Obligated Group Bond Trustee seek entry of an order authorizing and approving the sale (the “Sale”) of all of Sears Methodist Centers, Inc.’s (the “Debtors”) rights and interests in the Abilene Property (the “Property”), in accordance with the Sale Procedures as provided for in *Findings of Fact, Conclusions of Law, and Order Confirming Plan of Reorganization Pursuant to Chapter 11 of the Bankruptcy Code* (the “Confirmation Order”) [Docket No. 800] entered by the United States Bankruptcy Court for the Northern District of Texas, Dallas Division (the “Bankruptcy Court”), and after due deliberation of the relief set forth herein; and finding that good and sufficient notice of the relief granted by this Order has been given and no further notice is required; and good and sufficient cause appearing to approve the relief herein, including for the reasons stated on the record at the

¹ The debtors in these Chapter 11 Cases, along with the last four (4) digits of their taxpayer identification numbers, are: Sears Methodist Retirement System, Inc. (6330), Canyons Senior Living, L.P. (8545), Odessa Methodist Housing, Inc. (9569), Sears Brazos Retirement Corporation (8053), Sears Caprock Retirement Corporation (9581), Sears Methodist Centers, Inc. (4917), Sears Methodist Foundation (2545), Sears Panhandle Retirement Corporation (3233), Sears Permian Retirement Corporation (7608), Sears Plains Retirement Corporation (8233), Sears Tyler Methodist Retirement Corporation (0571) and Senior Dimensions, Inc. (4016). The mailing address of each of the Debtors, solely for purposes of notices and communications, is 2100 Ross Avenue, 21st Floor, c/o Paul Rundell, Dallas, Texas 75201.

² Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to them in the Sale Procedures.

hearing seeking approval of the Sale, the Bankruptcy Court hereby FINDS, DETERMINES, CONCLUDES, and ORDERS that:

1. The bid submitted by TMF (in the capacity as purchaser, the “Purchaser”) constitutes the highest and best offer for the Property. Other parties have had a reasonable opportunity to make a higher or otherwise better offer to purchase the Property.

2. Pursuant to §§ 105(a) and 363 of the Bankruptcy Code, the Liquidating Trustee (the “Authorized Representative”), on behalf of the Debtor, is authorized to transfer the Property to the Purchaser pursuant to a deed substantially in the form attached hereto as Exhibit 1. The transfer of the Property to the Purchaser pursuant to the terms hereof shall constitute a legal, valid, binding, and effective transfer of the Property.

3. Upon the closing of the Sale, pursuant to § 363(f) of the Bankruptcy Code, the Purchaser shall take title to and possession of the Property free and clear of any and all liens, claims, interests, and encumbrances, except for the outstanding ad valorem property taxes associated with the Property is subject to the liens that secure all amounts owed in connection with such taxes.

4. Upon the closing of the Sale, TMF’s secured claims will be reduced by \$760,000.00.

5. The Purchaser is purchasing the Property in good faith and is a good faith buyer within the meaning of Section 363(m) of the Bankruptcy Code. The Purchaser proceeded in good faith in connection with all aspects of the Sale. Accordingly, the Purchaser is entitled to all of the protections afforded under Section 363(m) of the Bankruptcy Code.

6. All persons and entities are enjoined from taking any actions against Purchaser or any affiliate of the Purchaser to recover any claim that such person or entity has solely against

the Debtor, save and except for taxing authorities holding outstanding ad valorem property taxes associated with the Property.

7. The Authorized Representative is hereby authorized to take any and all actions necessary to consummate the transactions contemplated by this Order.

8. Notwithstanding any provision in the Bankruptcy Rules to the contrary, the terms of this Order shall be immediately effective and enforceable upon its entry, notwithstanding the possible applicability of Bankruptcy Rule 6004(h) or otherwise.

9. This Court retains jurisdiction with respect to all matters arising from or related to the implementation of this Order.

SIGNED this ____ day of _____, 2015.

Stacey G.C. Jernigan,
U.S. Bankruptcy Judge

EXHIBIT 1

NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL PERSON, YOU MAY REMOVE OR STRIKE ANY OR ALL OF THE FOLLOWING INFORMATION FROM ANY INSTRUMENT THAT TRANSFERS AN INTEREST IN REAL PROPERTY BEFORE IT IS FILED FOR RECORD IN THE PUBLIC RECORDS: YOUR SOCIAL SECURITY NUMBER OR YOUR DRIVER'S LICENSE NUMBER.

STATE OF TEXAS §
COUNTY OF TAYLOR §

KNOW ALL MEN BY THESE PRESENTS:

SPECIAL WARRANTY DEED

SEARS METHODIST CENTERS, INC., (“**Grantor**”), a Plan Debtor in the bankruptcy case styled as *In re Sears Methodist Retirement System, Inc. et al.*, in the United States Bankruptcy Court for the Northern District of Texas, Case No. 14-32821 (the “**Bankruptcy Case**”), for and in consideration of the sum of \$10 and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, has GRANTED, BARGAINED, SOLD, and CONVEYED and by these presents does GRANT, BARGAIN, SELL, AND CONVEY unto Texas Methodist Foundation (“**Grantee**”), that certain land in Taylor County, Texas, fully described in Exhibit A hereto, together with all improvements, if any, thereon and all rights appurtenances appertaining thereto (collectively, the “**Property**”) pursuant to that certain *Order Confirming Sale of Abilene Property* [Docket No. ____] (as attached hereto as Exhibit B, the “**Bankruptcy Order**”).

This Special Warranty Deed and the conveyance hereinabove set forth is executed by Grantor and accepted by Grantee subject to all matters of record to the extent the same are validly existing and applicable to the Property and not otherwise extinguished by the Bankruptcy Order, all subject and pursuant to the Bankruptcy Order (collectively, the “**Permitted Exceptions**”).

TO HAVE AND TO HOLD the Property, subject to the Permitted Exceptions as aforesaid, unto Grantee, and Grantee's successors and assigns, forever; and Grantor does hereby bind Grantor, and Grantor's successors and assigns, to WARRANT and FOREVER DEFEND, all and singular, the Property, subject to the Permitted Exceptions unto Grantee, and Grantee's successors and assigns, against every person whomsoever lawfully claiming or to claim the same or any part thereof by, through or under Grantor, but not otherwise.

Except as specifically stated herein, Grantor hereby specifically disclaims any warranty, guaranty, or representation, oral or written, past, present or future, of, as, to, or concerning (i) the nature and condition of the Property, including but not by way of limitation, the water, soil, geology and the suitability thereof, and of the Property, for any and all activities and uses which Grantee may elect to conduct thereon or any improvements Grantee may elect to construct thereon, income to be derived therefrom or expenses to be incurred with respect thereto, or any obligations or any other matter or thing relating to or affecting the same; (ii) the manner of construction and condition and state of repair or lack of repair of any improvements located thereon; (iii) except for any warranties contained herein, the nature and extent of any easement, right-of-way, lease, possession, lien, encumbrance, license, reservation, condition or otherwise;

and (iv) the compliance of the Property or the operation of the Property with any laws, rules, ordinances, or regulations of any government or other body. THE CONVEYANCE OF THE PROPERTY AS PROVIDED FOR HEREIN IS MADE ON AN "AS IS" BASIS, AND GRANTEE ACKNOWLEDGES THAT, IN CONSIDERATION OF THE AGREEMENTS OF GRANTOR HEREIN, EXCEPT AS OTHERWISE SPECIFIED HEREIN, GRANTOR MAKES NO WARRANTY OR REPRESENTATION, EXPRESS OR IMPLIED, OR ARISING BY OPERATION OF LAW, INCLUDING, BUT IN NO WAY LIMITED TO, ANY WARRANTY OF CONDITION, HABITABILITY, MERCHANTABILITY, OR FITNESS FOR A PARTICULAR PURPOSE OF THE PROPERTY.

Grantee, by its acceptance hereof, does hereby assume and agree to pay any and all outstanding ad valorem taxes pertaining to the Property.

EXECUTED effective the ____ day of _____, 2015.

GRANTOR:

SEARS METHODIST CENTERS, INC.,
a Texas non-profit corporation

By: _____
Name: Harold Kessler
Title: Liquidating Trustee

STATE OF TEXAS
COUNTY OF _____

This instrument was acknowledged before me on the _____ day of _____, 2015 by _____, the _____ of SEARS METHODIST CENTERS, INC., a Texas non-profit corporation, on behalf of said corporation.

Notary Public, State of Texas
Printed Name: _____
Commission Expires: _____

(Seal)

Grantee's Address for tax notices:

Texas Methodist Foundation
11709 Boulder Lane #100
Austin, TX 78726-1808

Exhibit A
Property Description

Tract Two:

Tract Two, Parcel A:

Being that certain tract of land stated to contain 17.34 acres, more or less, out of Survey No. 12 of the Alfred and Mary Fasshauer Division of Survey No. 10 and Survey No. 12, Lunatic Asylum Land, Survey No. 65, Blind Asylum Land, Taylor County, Texas as said tract is more particularly described by metes and bounds as Tract One in deed to Sears Methodist Centers, Inc. dated November 14, 2003 recorded in Bol. 2902 Page 715 Official Public Records, Taylor County, Texas, reference to which is hereby made for all purposes, including the incorporation herein of said description by reference.

Tract Two, Parcel B:

Being that certain tract of land stated to contain 1.98 acres, more or less, out of Section Lunatic Asylum Land, Taylor County, Texas, as said tract is more particularly described by metes and bounds as Tract Two in deed to Sears Methodist Centers, Inc. dated November 14, 2003 recorded in Bol. 2902 Page 715 Official Public Records, Taylor County, Texas, reference to which is hereby made for all purposes, including the incorporation herein of said description by reference.

Exhibit B
Bankruptcy Order

[TO BE INSERTED]